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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/689,999	10/21/2003	Timothy Garrett	898-0011457-US(PAR)	4861
2512	7590	02/16/2005	EXAMINER	
PERMAN & GREEN 425 POST ROAD FAIRFIELD, CT 06824			TSIDULKO, MARK	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 02/16/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/689,999

Applicant(s)

GARRETT, TIMOTHY

Examiner

Mark Tsidulko

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 010705.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-12, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Howard (US 1,256,232) in view of Zemar (US 6,764,197) and Shaw (US 2,631,247).

Referring to Claims 1-5, 7-10, 12 Howard discloses (Figs. 1-3) device for illuminating a flag including:

- a fixture enclosure [1a] mounted on a flag pole;
- a light source [8] mounted within the fixture enclosure and a power source [4];
- a first interchangeable section (cap [5] with sphere, see Fig.1);

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- a second interchangeable section (cap [5] with vane [13], see Fig.3).

Interchangeable sections are removable and may be connected to the pole in any known way (page 2, right col., lines 66-69).

Howard discloses the instant claimed invention except for light sensitive device mounted on the interchangeable section:

Zemar discloses a lighting device for illuminating ornamental display, including flags (col.1, lines 9-12) having a light sensitive device (Abstract, claim 10) which includes solar cell and a battery. Using of this device allow to automate switching of the light source.

Shaw discloses that the light sensitive device [71] is mounted on the interchangeable section [10].

Referring to Claim 6 Howard discloses a fixture disclosure [1a] having a shoulder (rounded wall), upper part of which plays role of a locating feature supporting the interchangeable section.

Referring to Claim 11 Howard discloses the instant claimed invention except for timer.

Zemar discloses a timer-controlled On/Off switch to automatically use the device at a dark time (col.4, lines 53-56).

Referring to Claim 14 Howard discloses the instant claimed invention except for directing the light at an incline relative to the pole.

Zemar discloses (Fig.1) a pivotally mounted fixture enclosure [12] which can be positioned at least 90 degrees in elevation (col. 4, line 44).

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It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the a light sensitive device of Zemar for the device of Howard in order to automate switching the illumination in accordance with an ambient illumination.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howard, Zemar and Shaw as applied to claim 11 above, and further in view of Doppelt (US 6,802,630).

Howard et al. disclose the instant claimed invention except for an electrical disconnect.

Doppelt discloses (Fig.4) male-female connector [18], [20] well known in the art. Using this type of connector will allow to provide quick connection/disconnection electrical parts in a time of exchanging the fixture enclosures.

It would have been obvious to one having ordinary skill in the art, at the time the invention was made, to provide the an electrical connector, as taught by Doppelt, for the device of Howard et al., in order to obtain repeatedly exchanging the fixture enclosures.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Howard, Zemar, Shaw and Doppelt. These references in a combination disclose structure of the device but do not disclose a method for illuminating a flag. It would have been obvious to one having ordinary skill in the art, at the time the invention was made to take the steps of apparatus above and provide a method for illuminating a flag since a prior art of record teaches or suggests a means for illuminating a flag:

- providing an enclosure to be mounted on the flag pole;
- providing a light source mounted within the enclosure;

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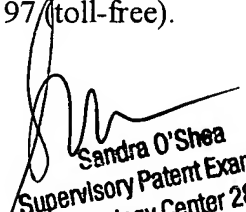
- providing a first section removably mounted to the enclosure;
- providing a light sensitive device removably mounted on the first section;
- providing an electrical disconnect;
- providing a second removable section;
- selectably mounting the first section or the second section on the enclosure.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Tsidulko whose telephone number is (571)272-2384. The examiner can normally be reached on 8 - 5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Sandra O'Shea  
Supervisory Patent Examiner  
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